

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

ERNEST PADILLA, PERSONAL REPRESENTATIVE
OF THE ESTATE OF ROBERT DOTSON, DECEASED;
KIMBERLY DOTSON,
INDIVIDUALLY AND AS PARENT AND NEXT FRIEND
OF JULIA
DOTSON; AND ZACHARY-MORA DOTSON,

Plaintiffs,

vs.

CITY OF FARMINGTON, NEW MEXICO;
DANIEL ESTRADA; DYLAN GOODLUCK;
AND WAYLON WASSON

Defendants.

Case No. 1:23-cv-00790-MLG-KK

**PLAINTIFF'S RESPONSE TO MOTION FOR PROTECTIVE ORDER STAYING
DISCOVERY PENDING THE COURT'S DISPOSITION ON DEFENDANT'S MOTION
FOR PARTIAL SUMMARY JUDGMENT**

Plaintiffs, for their Response to Motion for Protective Order, Staying Discovery, Pending the Court's Disposition of City Defendant's Motion for Partial Summary Judgment, would show the Court the following:

(1) Plaintiff is not responding specifically to Defendant's version of the events contained in the Motion. The Introduction in the Motion is not of any particular value to the Motion, and only represents the Defendants' preferred version of the facts.

(2) The Motion for Partial Summary Judgment will be disposed of quickly, either by Stipulation or by the Court's Order. As set forth in Plaintiffs' Response to the Motion, Plaintiffs

make no claim for the detention and false imprisonment of the children under 42 USC Section 1983, and the Motion for Partial Summary Judgment seeks to dismiss a cause of action which does not exist and has not been brought.

(3) Merely because of that, the Motion for Protective Order should be denied because there is no actual Motion for Summary Judgment over anything in controversy to be decided. Anticipating, however, that Defendants will file other Motions exhaustively and serially, Plaintiffs point out that the Defendants would obviously like to postpone Discovery for as long as possible and, therefore, would also like for the trial of this case to be delayed as long as possible. Defendants do not seem to wish to face the Plaintiffs on the merits of this case.

(4) Regardless of the federal claims presented by this case under 42 U.S.C Section 1983, there are other claims which are not subject to the defense of qualified immunity, specifically claims under the New Mexico Tort Claims Act and claims under the New Mexico Civil Rights Act. Discovery on those claims should commence immediately. No matter the arguments Defendants may present on qualified immunity, the state claims remain, and are unaffected by qualified immunity. The facts to be developed on those causes of action are virtually the same as those in the Section 1983 action. Discovery should be conducted on those claims. The police officers who shot and killed Mr. Dotson will be deposed on the State law claims. It makes no sense to pretend they won't, nor to continue postponing a scheduling conference every time the City of Farmington decides to file another Motion. The Motion for Protective Order should be denied. There is no reason to protect the City or its officers from discovery which is inevitable.

(5) Good cause must be shown to support a requested protective order. FRCP 26 (C)(1). It does not exist here because discovery will be needed on all issues in the case, and prejudice to the Plaintiffs from the continued delay in discovery is not offset by any actual benefit to Defendants, the public, nor the Court system.

Respectfully submitted,

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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was forwarded to counsel for Defendants on this 5th day of March 2024, as stated below:

VIA E-SERVICE

Luis Robles

/s/Doug Perrin

Doug Perrin